UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,022	11/03/2003	Alberto Jose Raggio Ulate	GRAGG.00001	3415

22858 7590 11/24/2010

CARSTENS & CAHOON, LLP
13760 NOEL ROAD, SUITE 900
DALLAS, TX 75240

EXAMINER	
DAILEY, THOMAS J	

ART UNIT	PAPER NUMBER
2452	

MAIL DATE	DELIVERY MODE
11/24/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/700,022	ULATE ET AL.	
	Examiner	Art Unit	
	THOMAS J. DAILEY	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 September 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-61 are pending.

Response to Arguments

2. Applicant's arguments with respect to various prior art rejections have been considered but are moot in view of the new ground(s) of rejection. The applicant's remaining arguments where the examiner has maintained similar positions to that of the previous action are addressed below.

3. Specifically, as the Hohenacker (WIPO Pub. No. WO/2002/080519 A2) reference is used in virtually all of the rejections, the applicant has made the argument that it is substantially different from the claimed invention. The applicant concludes one of ordinary skill in the art reading Hohenacker would be led away from the current invention and would not be motivated either by Hohenacker or by the skill of the person ordinary skill in the art to combine Hohenacker with another reference to reach the claimed invention. Specifically, the applicant derides the Hohenacker system as "crude" system, whereas the claimed invention provides an enclosed studio.

4. The examiner disagrees and notes one cannot show nonobviousness by attacking references individually where the rejections are based on combinations

of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Specifically, while the Hohenacker reference is relied upon prominently in the below rejections, additional references are used to account for it's deficiencies as set for in 35 USC 103.

A point of contention would be the asserted "crudeness" of the Hohenacker reference by the fact that it is open air versus the claimed "enclosed studio," and thus the applicant concludes, the teaching is not applicable in any way to the claimed invention. The examiner disagrees with this contention and notes, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). That is, the Chu (US Pat. 6,086,380) reference clearly teaches an enclosed studio to make recorded performances (Abstract and Fig. 1) and combining the reference with Hohenacker would have been obvious to one of ordinary skill in the art at the time of the invention to provide for privacy when giving a recorded performance thus improving the overall user experience.

The examiner further notes that none of the proposed modifications of Hohenacker would render the invention unsatisfactory for its intended purpose as

precluded in MPEP 2143.01 (V) ("If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."), which appears to be what the applicant is implying. Simply put, the intended purpose of Hohenacker is recording video from a variety of remote locations and for use on the Internet and television for entertainment purposes ([0001]-[0002]). With the combination of Chu as an example, it is unclear how in, any way, providing an enclosure for the recording area would render Hohenacker unable to function.

Lastly, Hohenacker and the other cited references are analogous prior art and as they are in common fields of endeavors and solve similar problems. For example, both Hohenacker ([0001]-[0002]) and Chu (Abstract) relate to recording performances in remote locations for entertainment purposes. The applicant's invention is also related to such, see Specification page 1, lines 3-6.

5. The applicant argues with respect to claim 33 that the examiner is conflating a studio user or a performer with an information seeker as the present invention permits a performer to select a category not "pre-determined" but rather "user-determined."

6. The examiner disagrees and notes, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). That

is, the claim makes no mention of who is categorizing the performances, but generally states they are categorized. Further, Chacker discloses selecting a category comprises classifying said recorded performances in to subject matter comprising user determined main categories and sub categories (column 10, lines 30-35; it is essential that all the categories be created by a user at some point, and further that users set the classification of the works; column 4, lines 51-54, discloses that the user's upload their recorded performances).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. **Claims 20, 21, 27-28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker (WIPO Pub. No. WO/2002/080519 A2), hereafter "Hohenacker," and Chu et al (US Pat. 6,086,380), hereafter "Chu," and in further view of Vizinia (US Pub. No. 2003/006029).**

9. Note that as Hohenacker '519 is the publication of the PCT which US PG Pub. 2005/0100311 (cited in a previous action) claims priority to (see '311 label 86 page 1: "PCT/EP02/01778" and Hohenacker '519, label 21 page 1:

"PCT/EP02/01778") the examiner is utilizing US PG Pub. 2005/0100311 as the English translation of Hohenacker '519. Therefore all citations are taken from PG Pub. 2005/0100311. Support for this practice can be found in MPEP 901.05(III) which recites:

> Duplicate or substantially duplicate versions of a foreign language specification, in English or some other language known to the examiner, can sometimes be found. It is possible to cite a foreign language specification as a reference, while at the same time citing an English language version of the specification with a later date as a convenient translation if the latter is in fact a translation. Questions as to content in such cases must be settled based on the specification which was used as the reference.

10. As to claim 20, Hohenacker a method for placing a plurality of recorded performance of a studio user on a studio site, said method comprising the steps of:

providing a studio in a public location wherein said studio comprises an audio and video recording capability ([0005], publicly accessible studio including camera and microphone [0074]);

causing a studio user to register to record a performance in said studio onto a studio server ([0083]; the user providing data via a telephone to fill a database, [0070] discloses the Internet server),

selecting a category for said performance ([0079], a category (e.g. sing a song, quiz, etc.) is selected which determines how the recording session will precede);

automatically providing instructions to said studio user for making a recorded performance based upon said category selected by said studio user ([0079], instructions will be dependent on the category; e.g. a quiz will have different requirements than singing a song);

recording said recorded performance ([0063]);

uploading said recorded performance to said studio server ([0070], recordings are sent to an Internet server);

uploading information related to said recorded performance to a database ([0070]);

making said recorded performance accessible to a third party from said studio site ([0093]);

repeating the above steps either using said studio at said public location or using one or more additional studios at different locations as necessary to place said plurality of performances on said studio site ([0001]).

But, Hohenacker does not explicitly disclose the studio is both enclosed and in a public place, which provides for a private recorded performance.

However, Chu discloses a recording studio that is both enclosed and in a public place, which provides for a private recorded performance (Fig. 1 and column 2, lines 39-48).

Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Chu in order to provide for privacy when giving a recorded performance thus improving the overall user experience.

Further neither Hohenacker nor Chu discloses making said recorded performance accessible to a third party from said studio site such that said third party can run a query on said database to find one or more of said plurality of recorded performances that are of interest to said third party.

However, Vizinia discloses making a recorded performance accessible to a third party from a studio site such that said third party can run a query on said database to find one or more of said plurality of recorded performances that are of interest to said third party (Abstract) and actors/performers ([0055]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Vizinia so as to provide a means for job seekers and hiring managers to contact while saving time (Vizinia, [0007]-[0008]).

11. As to claim 21, Vizinia discloses said database is organized into one or more categories selected from actors, comedians, job seekers, wherein said third party can run said query on said database for specific subject matter related to a specific category prior to accessing said one or more of said plurality of recorded performances (Abstract) and actors/performers ([0055]).

12. As to claims 27-28, Chu discloses said recorded performance is made using a Karaoke-style database where a studio user simultaneously views said recorded performance (Abstract, Fig. 1).

13. As to claim 30, Hohenacker discloses said studio user agrees to an exclusive agency contract with a studio operator ([0081]).

14. Claims 24, 32-33, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Vizinia as applied to claim 20 in view of Chacker (US Pat. 6,578,008).

15. As to claim 24, Hohenacker, Chu, and Vizinia do not disclose an information seeker purchases said recorded performance.

However, Chacker discloses an information seeker purchasing an uploaded recorded performance (column 6, lines 63-65 and column 12, lines 48-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Chacker in order for the studio to use the acquired recorded performances to earn a profit.

16. As to claim 32, Hohenacker, Chu, and Vizinia do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

17. As to claim 33, Hohenacker, Chu, and Vizinia do not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

18. As to claim 35, Hohenacker, Chu, and Vizinia do not disclose said recorded performance may be rated by a plurality of viewers and wherein further each said viewer is restricted from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

19. As to claims 36, Hohenacker, Chu, Vizinia, and Chacker disclose the invention substantially with regard to the parent claim, and further said studio operator is automatically electronically notified via an email message when one of said plurality of recorded performances exceeds a pre-determined ratings threshold. (Chacker, column 13, lines 23-28; with claims 3 and 4 disclosing such information may be disseminated via email).

20. As to claims 37, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim, and further disclose an information seeker is automatically electronically notified via an email message when one of said plurality of recorded performances recorded performance exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28; with claims 3 and 4 disclosing such information may be disseminated via email).

21. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Vizinia as applied to claim 20, in view of Maroney (US Pat. 2002/0103740).

22. As to claim 25, Hohenacker, Chu, and Vizinia do not discloses at least one information seeker bids to enter into contract negotiations with said studio user.

However, Maroney discloses a bidding system in which a bidder bids enter negotiations with a seller ([0026], "it is preferred that priority for admission to the second stage of negotiations be awarded by rank ordering the participants in the auction by the value of their final bid. Thus, the participant having the highest final bid at the close of the auction is preferably the first invited to enter a bilateral negotiation with the domain name registrant."; Note Maroney's bidding system is not limited to domain name registry auctions, see for example claims 1 and 6, but is an exemplary embodiment, i.e. see claim 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Maroney in order conduct fair auctions that benefit both a buyer and the seller.

23. Claims 22-23, 29, and 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Vizinia as applied to claim 20, in further view of what was well known in the art.

24. As to claim 22, Hohenacker, Chu, and Vizinia do not explicitly disclose parental consent is provided by said studio user prior to making said recorded

performance accessible. However, Official Notice is taken that it was well known in the art to first have the parental consent of minors prior to distribution of any their recorded performance, as it is usually required by law. Therefore it would have been obvious to incorporate this feature into Hohenacker's system so as to allow minors to fully utilize all the features and comply with known laws.

25. As to claim 23, Chu discloses a professional media kit is produced from said input information and said recorded performance (column 16, lines 25-45, CD or VCR is made at the conclusion of the performance; as Chu allows for "a personal message" the demographic information disclosed in Hohenacker could easily be included with the professional media kit of Chu).

26. As to claim 29, Hohenacker, Chu, and Vizinia do not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to one of ordinary skill in the art given the teachings of Hohenacker. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

27. As to claim 34, Hohenacker, Chu, and Vizinia do not disclose video conferencing between at least two studio users in at least two studios. However, Official Notice is taken that it was well known in the art to teleconference between two separate video studios. Therefore, given the teachings of Hohenacker's geographically separate studios connected to the Internet, it would have been obvious to one of ordinary skill in the art at the time of the invention allow video conferencing between those studios thereby creating broader appeal to the general public.

28. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Vizinia as applied to claim 20, in view of Foroutan (US Pat. 7,162,433).

29. As to claim 26, Hohenacker, Chu, and Vizinia disclose the parent claim 20, but does not explicitly disclose said recorded performance is reviewed by a personal coach.

However, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia

with Foroutan in order to allow industry experts to review and provide feedback to aspiring talent so as to improve the overall user experience.

30. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Vizinia as applied to claim 20, in further view of Qian et al (US Pub. 2002/0189429), hereafter "Qian."

31. As to claim 31, Hohenacker, Chu, and Vizinia disclose the parent claim, but do not discloses said recorded performance consists of only a raw voice of said studio user wherein a microphone is used for said recorded performance while said studio user further uses headphones designed to minimize feedback produced by said microphone

However, Qian discloses said recorded performance consists of only a raw voice of said studio user wherein a microphone is used for said recorded performance while said studio user further uses headphones designed to minimize feedback produced by said microphone (Fig. 2, label 55 and [0009]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Vizinia with Qian in order to allow users to record their singing and have it be played with other audio files (Qian, [0009]).

32. Claims 38, 39, 43, 44, 46, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Chu et al (US Pat. 6,086,380), hereafter "Chu," in further view Qian.

33. As to claim 38, Hohenacker discloses a method of recruiting talent comprising:

providing a plurality of studios for at least one studio user to record a performance ([0005], publicly accessible studio including camera and microphone [0074]);

causing said at least one studio user to register to record said performance in one of said plurality of studios ([0029]-[0030]);

selecting a category for said performance ([0079], a category (e.g. sing a song, quiz, etc.) is selected which determines how the recording session will precede);

automatically providing instructions to said studio user for making a recorded performance based upon said category selected ([0079], instructions will be dependent on the category; e.g. a quiz will have different requirements than singing a song);

making a recorded performance ([0063]);

transmitting said recorded performance to an information seeker ([0093])

repeating the above steps using said plurality of studios as necessary based on the location of each additional studio user desiring to be considered in a talent search ([0001] and [0013], e.g. "casting").

But, Hohenacker does not explicitly disclose the studio is enclosed with an input terminal located at the enclosed studio, and further does not disclose that the instructions are automatically provided by an image on a video screen.

However, Chu discloses a recording studio that is with an input terminal located at the enclosed studio (Fig. 1 and column 2, lines 39-48; column 8, line 63-column 9, line 6 discloses a keyboard as an input terminal), and instructions are automatically provided by an image on a video screen (column 11, lines 21-26).

Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Chu in order to provide for privacy when giving a recorded performance thus improving the overall user experience.

Lastly, the above referenced prior arts do not explicitly disclose recording only a raw voice of a studio user.

However, Qian discloses a recording system and method which includes the use of headphones and the recording of only a raw voice of a performer (Fig. 2, label 55 and [0009]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chu with Qian in order to allow users to record their singing and have it be played with other audio files (Qian, [0009]).

34. As to claim 39, Hohenacker discloses said at least one studio user further provides demographic information during said step of causing at least one studio user to register ([0030]).

35. As to claim 43, Hohenacker discloses said demographic information is transmitted to a talent seeker ([0030]).

36. As to claim 44, Chu discloses a professional media kit is produced from said input information and said recorded performance (column 16, lines 25-45, CD or VCR is made at the conclusion of the performance; as Chu allows for "a personal message" the demographic information disclosed in Hohenacker could easily be included with the professional media kit of Chu).

37. As to claim 46, Chu discloses said recording is achieved with a Karaoke-style database wherebyl music is transmitted through at least one speaker inside said studio and words are displayed on a video/teleprompter screen (Abstract, Fig. 1).

38. As to claim 47, Hohenacker discloses said recording is achieved in an interview fashion whereby questions are transmitted through at least one speaker ([0008]).

39. As to claim 49, Hohenacker discloses said information seeker at further views said recorded performance from an internet connection ([0040]).

40. Claims 40 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian as applied to claims 38 and 39, and in further view of Vizina.

41. As to claim 40, Hohenacker, Chu, and Qian do not disclose a talent seeker can execute a query on a database of information related to said recorded performance to narrow the number of recorded performances viewed by said talent seeker during the search for talent.

However, Vizinia discloses a talent seeker can execute a query on a database of information related to said recorded performance to narrow the number of recorded performances viewed by said talent seeker during the search for talent ((Abstract) and actors/performers ([0055]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Qian with Vizinia so as to provide a means for job seekers and hiring managers to contact while saving time (Vizinia, [0007]-[0008]).

42. As to claim 50, Hohenacker, Chu, and Qian do not disclose wherein said recorded performance categorized by subject matter, wherein said subject matter comprises one or more of said categories selected from actors, comedians, performers, job seekers, organ donors, venture capitalists.

However, Vizinia discloses a database containing user uploaded content which can be queried by hiring managers for job seekers (Abstract) and actors/performers ([0055]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Qian with Vizinia so as to provide a means for job seekers and hiring managers to contact while saving time (Vizinia, [0007]-[0008]).

43. Claims 41, 42, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian, as applied to claims 38 and 39, in view of what is well known in the art.

44. As to claims 41 and 42, Hohenacker, Chu, and Qian do not disclose said studio user or a talent seeker pays a subscription to provide said demographic information.

However, charging a subscription fee for desired data that has been acquired is a common practice in the art. Therefore, Official Notice (see MPEP 2144.03) is taken that it would have been an obvious modification to one of ordinary skill in the art at the time of the invention to charge subscription fees to users wishing to access the data acquired by the remote studios.

45. As to claim 61, Hohenacker, Chu, and Qian do not disclose video conferencing between at least two studio users in at least two studios. However, Official Notice is taken that it was well known in the art to teleconference between two separate studios. Therefore, given the teachings of Hohenacker's geographically separate studios, it would have been obvious to one of ordinary skill in the art at the time of the invention allow video conferencing between those studios thereby creating broader appeal to the general public.

46. **Claims 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian as applied to claim 38, in view of Foroutan (US Pat. 7,162,433).**

47. As to claim 45, Hohenacker, Chu, and Qian, disclose the parent claim 38, but do not explicitly disclose said recorded performance is reviewed by a personal coach.

However, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Qian with Foroutan in order to allow industry experts to review and provide feedback to aspiring talent so as to improve the overall user experience.

48. Claims 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, Chu, and Qian as applied to claim 38, in view of Chacker (US Pat. 6,578,008).

49. As to claim 48, Hohenacker, Chu, and Qian do not disclose and wherein said studio operator is automatically electronically notified via an email message when recorded performance exceeds a pre-determined rating.

However, Chacker discloses said studio operator is automatically electronically notified via an email message when a performance exceeds a pre-determined ratings threshold. (Chacker, column 13, lines 23-28; with claims 3 and 4 disclosing such information may be disseminated via email).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Qian, with Chacker so that system user's are aware of the activities of their system in real time.

50. Claims 1-6, 8-10, 13, 16, 51-54, 57-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu et al (US Pat. 6,086,380), Hohenacker (WIPO Pub. No. WO/2002/080519 A2), in further view of Foroutan (US Pat. 7,162,433).

51. As to claim 1, Chu discloses an interactive personal service provider for video communication comprising:

a plurality of enclosed studios located in a plurality of geographically separated locations (column 2, lines 38-47 and Fig. 1), each of said plurality of enclosed studios having a audio and video recorder for recording a plurality of recorded performances (column 6, lines 58-61 and column 7, lines 28-31; video camera and microphone record performance);

a plurality of input terminals associated with said plurality of enclosed studios for allowing a plurality of studio users to each input information related to a respective one of said plurality of recorded performances (column 8, line 63-column 9, line 6 discloses a keyboard as an input terminal).

But, Chu does not disclose the system further comprising:

at least one computer server for storing said plurality of recorded performances;

a database to receive a plurality of input information sets from a plurality of studio users, each of input information sets relating to a respective one of said plurality of recorded performances; and

a plurality of communications connections to transmit said plurality of said recorded performances to said at least one computer server from said plurality of enclosed studios.

However, Hohenacker discloses:

at least one computer server for storing said plurality of recorded performances (Abstract and [0070]);

a database to receive a plurality of input information sets from a plurality of studio users, each of input information sets relating to a respective one of said plurality of recorded performances ([0083], demographic information may be inputted by a studio user and sent to the recording unit); and

a plurality of communications connections to transmit said plurality of said recorded performances to said at least one computer server from said plurality of studios ([0005], multiple recording areas are distributed and therefore multiple connections to the internet server disclosed in [0070]), wherein said at least one computer server is configured to allow a plurality of viewers to view said plurality of said recorded performances ([0070]).

Therefore it would have been obvious at the time of the invention to combine the teachings of Chu and Hohenacker in order to provide recorded performances to remote locations whereupon a larger audience will be exposed to a user's performance.

But, neither Chu nor Hohenacker disclose the performances are categorized by said at least one computer server based upon said plurality of input information sets.

However, Foroutan discloses the performances are categorized by said at least one computer server based upon said plurality of input information sets and

wherein said at least one computer server is configured to allow a plurality of viewers to view said plurality of said recorded performances (column 30, lines 30-49, an artist submits a song (recorded performance) and inputs information in regards to which genre or category the song belongs and is stored in a database with that information available to be used by reviewers; further the TPICS server is available over a network, see Fig. 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu and Hohenacker with Fouroutan in order to allow reviewers of recorded performances to view performances in genres or categories they would like to view.

52. As to claim 51, it is rejected by a similar rationale to that set forth in claim 1's rejection.

53. As to claims 2 and 57, Fouroutan discloses a studio operator can query said database to obtain a subset of said plurality of recorded prefaces that meet criteria specified by an information seeker (column 30, lines 30-49).

54. As to claim 3, Hohenacker discloses a viewer is restricted from viewing said plurality of said input information sets ([0093]).

55. As to claims 4 and 58, Foroutan discloses a viewer purchases said recorded performance from a studio operator (column 16, lines 6-18).

56. As to claim 5, Hohenacker disclose providing input information with the performance (Hohenacker, [0030]) and Chu discloses a professional media kit is produced from said input information and said recorded performance (column 16, lines 25-45, CD or VCR is made at the conclusion of the performance; as Chu allows for "a personal message" the demographic information disclosed in Hohenacker could easily be included with the professional media kit of Chu).

57. As to claim 6, Foroutan discloses an information seeker can query said plurality of input information sets (column 30, lines 30-49).

58. As to claim 8, Foroutan discloses said recorded performance is reviewed by a personal coach, wherein said personal coach offers tips (column 18, lines 18-32).

59. As to claim 9, Hohenacker discloses said recorded performance is made using a Karaoke-style database ([0079]).

60. As to claim 10, Chu discloses said plurality of enclosed studios are substantially soundproof (Fig. 1, and column 2, lines 39-48).

61. As to claims 13 and 53-54, Hohenacker discloses said studio site comprises a website for allowing said plurality of viewers to view said plurality of recorded performances ([0050]).

62. As to claims 16 and 60, Hohenacker discloses a live video conferencing capability ([0079]).

63. As to claim 59, Hohenacker discloses said recorded performance comprises at least two studio users in at least two separate locations ([0001]).

64. As to claim 52, it is rejected by the same rationale set forth in claim 1's rejection.

65. Claims 14-15, 17-19, and 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, and Foroutan, as applied to claims 1 and 51, in further view of Chacker (US Pat. 6,578,008).

66. As to claims 14 and 55, Hohenacker, Chu, Foroutan, do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories for organizing a plurality of recorded performances (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

67. As to claim 15, Hohenacker, Chu, Foroutan, do not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35; it is essential that all the categories be created by a user at some point, and further that users set the classification of the works).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

68. As to claims 17 and 56, Hohenacker, Chu, Foroutan, do not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings

(column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, and Qian with Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

69. As to claim 18, Chacker discloses an information seeker is electronically notified when ratings from one or more viewers exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28).

70. As to claim 19, Chacker discloses a studio operator is electronically notified when ratings from said viewers exceeds a predetermined ratings threshold (Chacker, column 13, lines 23-28).

71. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, as applied to claim 1, in further view of Maroney.

72. As to claim 7, Chu, Hohenacker, Foroutan, disclose the parent claim 1, but do not disclose at least one information seeker bids to enter into contract negotiations with said studio user.

However, Maroney discloses a bidding system in which a bidder bids enter negotiations with a seller ([0026], "it is preferred that priority for admission to the second stage of negotiations be awarded by rank ordering the participants in the auction by the value of their final bid. Thus, the participant having the highest final bid at the close of the auction is preferably the first invited to enter a bilateral negotiation with the domain name registrant."; Note Maroney's bidding system is not limited to domain name registry auctions, see for example claims 1 and 6, but is an exemplary embodiment, i.e. see claim 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu, Hohenacker, Foroutan, with Maroney in order conduct fair auctions that benefit both a buyer and the seller.

73. Claim 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, as applied to claim 1, in view of what was well known in the art.

74. As to claim 11, Hohenacker, Chu, and Foroutan do not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to

one of ordinary skill in the art given the teachings of Chu, which allows for previews. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

75. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, and Maroney, as applied to claim 7, in further view of Chacker.

76. As to claim 12, Hohenacker, Chu, Foroutan, and Maroney do not disclose said studio user electronically contracts with said studio operator for an exclusive agency contract for said recorded performance.

However, Chacker discloses an uploading artist electronically contracts with a studio operator for an exclusive agency contract for an uploaded performance (column 7, lines 8-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, Foroutan, and Maroney with Chacker in order to recruit talent (Chacker, column 4, lines 23-26).

Conclusion

77. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

78. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

79.

80. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.

81. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571-272-6967. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

82. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice L Winder/
Primary Examiner, Art Unit 2452

/T. J. D./
Examiner, Art Unit 2452